

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GLENN DAVIS,

Petitioner,

v.

ANA BOATWRIGHT, Warden,
New Lisbon Correctional Institution,

Respondent.

ORDER

09-cv-0353-bbc

Petitioner, a prisoner at the New Lisbon Correctional Institution, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the five dollar filing fee. The petition is before the court for preliminary review pursuant to Rule 4 of the Rules Governing Section 2254 Cases.

Petitioner challenges his 1997 conviction in the Circuit Court for Milwaukee County of four counts of third degree sexual assault of a child. This is not the first time petitioner has filed a federal habeas corpus petition challenging this conviction. He filed a virtually identical petition in the United States District Court for the Eastern District of Wisconsin on March 10, 2008. Davis v. Boatwright, 1:08-cv-0212-WCGA. On May 2, 2008, district judge William Griesbach entered an order dismissing the petition on several grounds, one

of which was that the petition had no merit. Id., Order, May 2, 2008, dkt. 5.

According to 28 U.S.C. § 2244(b)(3)(A), a petitioner may not file a second or successive application for habeas relief in the district court unless he first seeks and obtains an order from the appropriate court of appeals authorizing the district court to consider the application. Petitioner has not obtained an order from the Court of Appeals for the Seventh Circuit authorizing him to file his successive petition. Accordingly, this court must dismiss the petition.

ORDER

IT IS ORDERED that the petition of Glenn Davis for a writ of habeas corpus is DISMISSED WITHOUT PREJUDICE for petitioner's failure to obtain the authorization required by 28 U.S.C. § 2244(b)(3)(A).

Entered this 15th of June, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge